

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to All Actions

DECLARATION OF GENEVIEVE M. ZIMMERMAN

Genevieve M. Zimmerman, being first duly sworn, deposes and declares as follows:

1. My name is Genevieve M. Zimmerman and I am a Partner with the Meshbesh & Spence Ltd. law firm. I am a member of the Court appointed Co-Lead Counsel in the above entitled matter.
2. I submit this declaration in support of Plaintiffs' Response Opposing Defendants' Motion for to Exclude Plaintiffs' Engineering Experts. Unless otherwise stated, the facts set forth herein are based upon my personal knowledge, information, and belief.
3. Attached hereto as Exhibit 1 is a true and correct copy of the Deposition of Dr. Richard Wenzel, taken on August 4, 2017 in Washington, D.C.
4. Attached hereto as Exhibit 2 is a true and correct copy of the deposition of Corporate Representative Al Van Duren, taken in Minneapolis, MN on March 7, 2017.
5. Attached hereto as Exhibit 3 is a true and correct copy of an internal clinical trial protocol titled *The effect of prewarming by a Bair Paws gown on redistribution hypothermia in patients undergoing total joint replacement or colorectal surgery*, dated September 6, 2007, bearing bates numbers 3MBH00982867-85.

6. Attached hereto as Exhibit 4 is a true and correct copy of Said Elghobashi's Expert Report.
7. Attached hereto as Exhibit 5 is a true and correct copy of the deposition of Thomas Kuehn, Ph.D., taken in Minneapolis, MN on July 10, 2017.
8. Attached hereto as Exhibit 6 is a true and correct copy of Sessler DI, Olmsted RN, Kuelpmann R. *Forced-Air Warming Does Not Worsen Air Quality In Laminar Flow Operating Rooms*. ANESTH ANALG. 113(6):1416-21.
9. Attached hereto as Exhibit 7 is a true and correct copy of Oguz, Ruken et al., *Airborne bacterial contamination during orthopedic surgery: A randomized controlled pilot trial*, J CLIN ANESTH , Volume 38 , 160 ó 164.
10. Attached hereto as Exhibit 8 is a true and correct copy of Moretti B, Larocca AMV, Napoli C, et al. *Active Warming Systems To Maintain Perioperative Normothermia In Hip Replacement Surgery: A Therapeutic Aid Or A Vector Of Infections?* J HOSP INFECT (2009); 73:58-63.
11. Attached hereto as Exhibit 9 is a true and correct copy of internal email dated July 10, 2015, bearing bates number 3MBH01330587.
12. Attached hereto as Exhibit 10 & 11 are true and correct copies of content published on the domains www.truthaboutbairhugger.com and www.bairhuggerfatcs.com. Upon information and belief, these domain names were registered to the Blackwell Burke law firm, but recently changed ownership to 3M.
13. Attached hereto as Exhibit 12 is a true and correct copy of Legg, Cannon, and Hamer, *Do forced air patient warming devices disrupt unidirectional downward airflow?*, THE JOURNAL OF BONE AND JOINT SURGERY (2012).
14. Attached hereto as Exhibit 13 is a true and correct copy of Legg and Hamer *Forced-air patient warming blankets disrupt unidirectional airflow*, THE JOURNAL OF BONE AND JOINT SURGERY (2013).

15. Attached hereto as Exhibit 14 is a true and correct copy of Kumar Belani, MBBS, MS, Mark Albrecht, MStat, MBA, BSME, Paul D. McGovern, BSc, MBBS, MRCS, PGCME, FHEA, Mike Reed, MBBS, MD, FRCS, (T&O), and Christopher Nachtsheim, PhD, *Patient Warming Excess Heat: The Effects on Orthopedic Operating Room Ventilation Performance*, ANESTHESIA & ANALGESIA (2012).
16. Attached hereto as Exhibit 15 is a true and correct copy of P.D. McGovern, et. al. *Forced-air warming and ultra-clean ventilation do not mix*, THE JOURNAL OF BONE & JOINT SURGERY (November 2011).
17. Attached hereto as Exhibit 16 is a true and correct copy of K.B. Dasari, M. Albrecht, and M. Harper, *Effect of forced-air warming on the performance of operating theatre laminar flow ventilation*, ANAESTHESIA (2012).
18. Attached hereto as Exhibit 17 is a true and correct copy of Brandt, Oguz, Huttner, et al, *Resistive-Polymer Versus Forced-Air Warming: Comparable Efficacy in Orthopedic Patients*, ANESTHESIA-ANALGESIA (March 2010).
19. Attached hereto as Exhibit 18 is a true and correct copy of Darouiche, R., Green, D., Harrington, M., Ehni, B., Kougias, P., Bechara, C., & O'Connor, D. (2017). *Association of Airborne Microorganisms in the Operating Room With Implant Infections: A Randomized Controlled Trial*. INFECTION CONTROL & HOSPITAL EPIDEMIOLOGY, 38(1), 3-10. doi:10.1017/ice.2016.240).
20. Attached hereto as Exhibit 19 is a true and correct copy of Stocks, Gregory W. et al., *Predicting bacterial populations based on airborne particulates: A study performed in nonlaminar flow operating rooms during joint arthroplasty surgery*, AMERICAN JOURNAL OF INFECTION CONTROL, Volume 38, Issue 3, 199 6 204.
21. Attached hereto as Exhibit 20 is a true and correct copy of *Operative Environment, International Consensus of Orthopedic Surgeons*, J ORTHOP RES 32:S60-S80, 2014.
22. Attached hereto as Exhibit 21 is a true and correct copy of 3MBH00050932.
23. Attached hereto as Exhibit 22 is a true and correct copy of 3MBH00134035.
24. Attached hereto as Exhibit 23 is a true and correct copy of 3MBH00107719.

25. Attached hereto as Exhibit 24 is a true and correct copy of Dr. Said Enghobashi's CV.
26. Attached hereto as Exhibit 25 is a true and correct copy of Wang Y, Elghobashi S, *On locating the obstruction in the upper airway via numerical simulation*, RESPIRATORY PHYSIOLOGY & NEUROBIOLOGY. 2014;193:1-10. doi:10.1016/j.resp.2013.12.009.
27. Attached hereto as Exhibit 26 is a true and correct copy of Exhibit 7 to Dr. Settles's Deposition. Dr. Settles brought these handwritten notes with him to his deposition.
28. Attached hereto as Exhibit 27 is a true and correct copy of Said Elghobashi's deposition, taken June 15, 2017 in Newport Beach, California.
29. Attached hereto as Exhibit 28 is a true and correct copy of W. L. Oberkampf and T. G. Trucano, *Verification and Validation in Computational Fluid Dynamics*, PROGRESS IN AEROSPACE SCIENCES, vol. 38, pp. 209-272, 2002..
30. Attached hereto as Exhibit 29 is a true and correct copy of 3MBH00042553.
31. Attached hereto as Exhibit 30 is a true and correct copy of Dr. Yadin David's Report.
32. Attached hereto as Exhibit 31 is a true and correct copy of Exhibit 15 to the deposition of Dr. John Abraham.
33. Attached hereto as Exhibit 32 is a true and correct copy of the deposition of William Jarvis, M.D., taken on July 25, 2017 in San Francisco, CA.
34. Attached hereto as Exhibit 33 is a true and correct copy of Dr. Yadin David's CV.
35. Attached hereto as Exhibit 34 is a true and correct copy of the deposition of Dr. Yadin David, taken in Houston, TX, on August 1, 2017.

36. Attached hereto as Exhibit 35 is a true and correct copy of Wood, Moss, Keenan, Reed, and Leaper, *Infection control hazards associated with the use of forced air warming in operating theatres*, JOURNAL OF HOSPITAL INFECTION (2014).
37. Attached hereto as Exhibit 36 is a true and correct copy of the Addendum r to ANSI/ASHRAE/ASHE Standard 170-2008, *Ventilation of Health Care Facilities*.
38. Attached hereto as Exhibit 37 is a true and correct copy of Element D, Services, Heating, Ventilating, and Air Conditioning, D304101 Patient Treatment Air Handling Distribution (MD Anderson Cancer Center), issued 1/1/2007.
39. Attached hereto as Exhibit 38 is a true and correct copy of Camfil Clean Air Solutions Guidelines.
40. Attached hereto as Exhibit 39 is a true and correct copy of Dan Koenigshofer's Expert Report.
41. Attached hereto as Exhibit 40 is a true and correct copy of Dan Koenigshofer's deposition, taken on June 13, 2017 in Chapel Hill, NC.
42. Attached hereto as Exhibit 41 is a true and correct copy of Reed M, Kimberger O, McGovern PD, Albrecht MC, *Forced-air warming design: evaluation of intake filtration, internal microbial buildup, and airborne-contamination emissions*, AANA JOURNAL (2013 Aug);81(4):275-80.
43. Attached hereto as Exhibit 42 is a true and correct copy of Michael Buck's deposition, taken on June 7, 2017 in Minneapolis, MN.
44. Attached hereto as Exhibit 43 is a true and correct copy of Michael Buck's Expert Report.
45. Attached hereto as Exhibit 44 is a true and correct copy of the deposition of Carl Zgoda, taken on February 24, 2017 in Minneapolis, MN.
46. Attached hereto as Exhibit 45 is a true and correct copy of the 510(k) application bearing bates number 3MBH00047858.

47. Attached hereto as Exhibit 46 is a true and correct copy of 3MBH00083780.

48. Attached hereto as Exhibit 47 is a true and correct copy of 3MBH00544754.

49. Attached hereto as Exhibit 48 is a true and correct copy 3MBH01224622.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Minneapolis, MN, this 3rd day of October, 2017.

/s/ Genevieve M. Zimmerman

Genevieve M. Zimmerman (MN#330292)
MESHBESHER & SPENCE, LTD.
1616 Park Avenue
Minneapolis, MN 55404
Phone: (612) 339-9121
Fax: (612) 339-9188
Email: gzimmerman@meshbesh.com

Plaintiffs Co-Lead Counsel